

LAW OFFICES OF ADAM D. PERLMUTTER, P.C.
ATTORNEYS AT LAW

260 MADISON AVENUE, SUITE 1800
NEW YORK, NY 10016
TEL. (212) 679-1990
FAX. (212) 679-1995

ADAM D. PERLMUTTER, ESQ.
—
JENNIFER LOUIS-JEUNE, ESQ.

OF COUNSEL
PAUL GREENFIELD, ESQ.

March 24, 2011

VIA FACSIMILE & ECF

The Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States of America v. Thomas Gioeli, et al.
Case No. 08-cr-240 (S-6) (BMC) (RER)

Dear Judge Cogan:

I am counsel, along with Carl J. Herman, Esq., for defendant Thomas Gioeli in connection with the above matter. I am writing to provide the Court with an update in advance of tomorrow's conference.

As a preliminary matter, I am pleased to report that the MDC has transferred Dino Saracino to the same unit as Mr. Gioeli, which will allow them to better coordinate discovery review and trial preparation. In addition, the MDC has made an additional accommodation to allow both defendants access to a VCR and tape cassette player for 17.5 hours per week to review approximately 512 hours of simultaneously recorded material produced by the government from the Torrese Social Club. Finally, with respect to the iPod units, I understand that the MDC has made arrangements to retrieve them for the vendor to load additional and previously omitted discovery.

At this juncture, Mr. Gioeli estimates that he has reviewed a total of 500 hours of material. He believes that the MDC gave him access to a computer to review 400 hours since the time of his arrest and he has reviewed an additional 100 hours since first

The Honorable Brian M. Cogan
March 24, 2011
Page 2 of 2

receiving an iPod during the week of February 8th. Some of his material included selected CD conversions from the 512 hours of audiocassette tapes.¹

The total material to be ultimately placed on the iPods will consist of the following:

1,404 hours	Original iPod download
624 hours	New discovery to be downloaded
449 hours	Prior discovery not previously downloaded (est.)
2,477 hours	Total iPod downloads

Even assuming that Mr. Gioeli has listened to date to 500 hours of material now on the iPods, which is not correct because that figure includes some of the CD conversion materials, he would have approximately 1,977 hours of material to still review plus the remaining portion of the audiocassette/videotapes as well. With a rough estimate of his reviewing 8 hours per day on the iPod and 2.5 hours per day of the audio/video material for six days a week, it would take an additional 41.2 weeks to complete his review.

Finally, the above does not include material related to the Nicholas Bova MDC recordings. We understand that the government has an intern reviewing materials and has identified a limited number of calls by Dina Calabro on Mr. Bova's MDC account. It appears, however, that the government has not been reviewing the correct set of recordings. The government obtained a limited set of materials from the MDC as opposed to the full set of recordings that Susan Kellman had delivered by firewall counsel to the Clerk of the Court. As a result, there may be still more material other than what we have outlined above.

We know that the Court will be troubled by the prospect of the serious delay occasioned by all of this information. Mr. Gioeli has, however, been continually raising with the Court the problem with lack of access to discovery at MDC since early February 2009. The Court's providing an iPod has considerably improved the situation. But there unfortunately remains a great deal of material to still review including but not limited to 848 hours of material not originally loaded onto the iPods.

¹ We are unaware of the status of Dino Saracino's review. In addition, we do not believe that he has obtained an iPod and that his application for CJA representation is still pending.

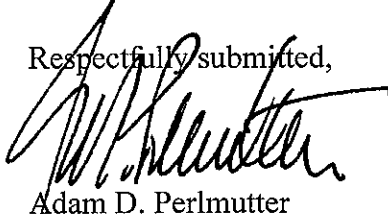
The Honorable Brian M. Cogan

March 24, 2011

Page 3 of 3

We want to thank the Court for its continued consideration of this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Perlmutter', is written over the text 'Respectfully submitted,'.

Adam D. Perlmutter

Cc: All counsel (via electronic mail)
Thomas Gioeli